

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

WINDY CITY INNOVATIONS, LLC)	
a Delaware company,)	
)	
	Plaintiff,) Civil Action No. 04-4240
v.)	
)	Judge Samuel Der-Yeghiayan
AMERICA ONLINE, INC.,)	
a Delaware Corporation (now known as AOL LLC))	
)	
	Defendant.)

**[PROPOSED] ORDER VACATING CERTAIN PRIOR ORDERS, OPINIONS
AND JUDGMENTS AND DISMISSING CASE WITH PREJUDICE**

Before the Court is the parties' Joint Motion To Vacate Certain Prior Orders, Opinions and Judgments and Dismiss Case With Prejudice. Specifically, the parties request that the Court vacate its July 29, 2005 order and opinion on claim construction (Docket Nos. 149 and 150); its December 8, 2005 summary judgment order and opinion (Docket Nos. 228 and 229); and its May 3, 2006 judgment based on those prior orders. The parties have advised the Court that they have reached an agreement that would finally resolve this dispute without any further action needed by this Court or the United States Court of Appeals for the Federal Circuit if the motion to vacate is granted.

On March 12, 2007, this Court indicated that it would vacate the prior orders, opinions and judgments as requested upon a full remand. Pursuant to the April 3, 2007 Order of the Federal Circuit, the case has been remanded to this Court in its entirety to allow the Court to act on the parties' joint motion to vacate consistent with the Court's March 12, 2007 Order.

Having considered the matter, the Court concludes that the vacatur requested by the parties is appropriate under F.R.C.P. 60(b). The vacatur would conserve judicial resources, both at the Federal Circuit and district court level, and would conserve the resources of the parties because the matter would be fully resolved without the necessity of any further action on the part of the parties or the court. Accordingly,

- (1) the July 29, 2005 Order and Opinion on claim construction (Docket Nos. 149 and 150) are hereby vacated;
- (2) the December 8, 2005 summary judgment Order and Opinion (Docket Nos. 228 and 229) are hereby vacated;
- (3) the May 3, 2006 judgment (Docket No. 252) is hereby vacated;
- (4) Windy City's complaint for patent infringement is hereby dismissed with prejudice; and
- (5) AOL's counterclaims for patent invalidity and unenforceability are hereby dismissed with prejudice.

ENTERED:

By the Court:

Date: _____

Judge Samuel Der-Yeghiayan